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QUESTION OF THE HUMAN RIGHTS OF ALL PERSONS SUBJECTED TO ANY FORM OF DETENTION OR IMPRISONMENT, IN PARTICULAR: TORTURE AND OTHER CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT

Letter dated 23 February 1993 from the Permanent Representative of Greece to the United Nations Office at Geneva addressed to the Assistant Secretary-General for Human Rights

I have the honour to enclose herewith the photocopy of a text containing remarks on paragraphs 205 to 235 of the report of the Special Rapporteur of the Commission on Human Rights on the question of Torture, submitted to the forty-ninth session of the Commission on Human Rights under agenda item 10 (a) (E/CN.4/1993/26).

I should be grateful if this text could be circulated as a document of the forty-ninth session of the Commission on Human Rights under agenda item 10 (a).

(Signed): Emmanuel I. Ghikas

Remarks concerning paragraphs 205 to 237 of the report of the Special Rapporteur of the Commission on Human Rights on the question of Torture

This Permanent Mission would wish to thank the Special Rapporteur for having incorporated important excerpts from the information and comments by the Greek Government on alleged torture or ill-treatment cases in Greece, forwarded with letter sub No. 6171.134/10/AS 2899, dated 30 October 1992.

However, among the inevitable omissions due to the shortage of space, there are some which may lead to misunderstandings and false impression, as shown by the following indicative examples:

(1) The omission of some "fundamental provisions in force" according to which: "in the framework of their mission, the Officers and Non-Commissioned Officers exercise preliminary investigation duties, always under the direction and supervision of the Public Prosecutor of the Magistrates' Court. They undertake a preliminary investigation, either upon a written order of the Public Prosecutor, or ex-officio, when it concerns a felony or misdemeanour caught in the act, or when there is a threat or direct danger due to an adjournment. In this case, the competent Public Prosecutor is informed immediately. The file of proceedings made out during the preliminary investigation is submitted to the competent Public Prosecutor's office which undertakes, from that moment on, the responsibility for further investigation of the case and the committal or otherwise of those responsible to trial. ... The rules governing the arrest and the detention of persons are clearly defined in the Penal Procedure and are analysed in the Regulations of the Greek Police. Any action, which may harm the honour and reputation, or offend the dignity of the person arrested, is prohibited" (page 4 of the reply).

Furthermore, as highlighted in page 6 of the reply, "It should be pointed out that when under detention in the services of the Greek Police, any person is ensured the absolute right to communicate freely with his/her lawyer. Members of the family or friends of the person under detention are also free to visit him/her daily. The opportunity given for medical examination ensures the protection of the health of the person in custody. The person in custody is also given the opportunity, if he/she wishes, to go out of the detention room, for recreation purposes, to read newspapers and other publications and to receive bed covers (sheets, blankets) other than the ones offered by the Service" (page 6 of the reply).

(2) Indicative omission, related to specific cases of alleged ill-treatment or torture, namely:

The Sotirios KALOGRIAS case where no mention is made of the findings of the administrative examination: "(a) Kalogrias' accusations concerning his maltreatment at the Security Division of Attica are unfounded. (b) The conduct of the policemen who tracked down Kalogrias in the area of Exarchia and the conduct of the policemen ... was lawful and proper ... (c) No reprehensible conduct of the two policemen who took him to the Security Division of Attica in the patrol car, was established" (page 16 of the reply).

The Pantelis TSOUMBRIS case where no reference is made to the fact that Tsoumbris unexpectedly attacked, kicked and hit the policemen until they fell on the ground, causing them physical injuries (page 22 of the reply).

The Suleyman Akyar case:

In the reply, it is not stated that "Akyar's death was a result of a physical injury caused by the blows he received from the police who were defending themselves". What is actually mentioned is that "it is a fact that Akyar's death bears upon the physical injury caused by the blows he received from the police who were defending themselves ..." (pages 34-35).

The Dimitris PAPATHEODOROU case where it is not mentioned that Papatheodorou was caught while performing lewd acts with three young Iraqis inside a car in front of a coffee shop, thus offending the decency of the passers-by (page 48 of the reply).

Furthermore, mention is also omitted of the fact that it is Papatheodorou himself who tried to take his clothes off, during his detention at the Police Station, but was prevented by the policemen and that the latter did not proceed with a body-search ... (page 48 of the reply).

The Stella EVGENIKOU case:

In the report, there is no reference to the fact that according to the file of proceedings: (a) Stella Evgenikou was arrested ... because of her involvement in violent acts against the police, (b) Evgenikou was injured during her arrest and while violent acts, in which she participated, were taking place against the police. She was not injured during her transfer or while in custody in the Security Headquarters of Attica (page 53 of the reply).

The Pavlos NATHANAEL and Kostas DIAVOLITSIS cases:

No mention is made of the conclusion of the investigation conducted by the Flying Squad Division of Attica based on the reports of the police officers, the file of proceedings drawn against Nathanael and Diavolitsis and on the medical certificates that "the injury of Nathanael was caused by his fall while he was trying to escape with Diavolitsis together, with whom he was handcuffed and being chased by constables Poulianitis and Sakellarakis" (page 61 of the reply).

The case of persons sticking up posters, where no mention is made of the part of the commentary of the reply according to which "The allegations for ill-treatment against the bill-posters while in custody by the Police are completely unfounded. If these allegations were true, it is certain that the bill-posters themselves would have reported it to their lawyers, since their communication was unhindered and would have lodged immediately a complaint against the police officers" (page 67 of the reply).

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